

AMENDED
M I N U T E S
SANDY CITY COUNCIL MEETING
Sandy City Hall - Council Chamber Room #211
10000 Centennial Parkway
Sandy, Utah 84070

SEPTEMBER 5, 2006

Meeting was commenced at 7:02 p.m.

PRESENT:

Council Members: Chairwoman Linda Martinez Saville, Vice Chairman Dennis Tenney, Bryant Anderson, Steve Fairbanks, Chris McCandless, and Stephen Smith

Mayor: Tom Dolan

Others in Attendance: CAO Byron Jorgenson; Assistant CAO Scott Bond; City Attorney Walter Miller; Community Development Director Mike Coulam; Public Utilities Director Shane Pace; Public Works Director Rick Smith; Economic Development Director Randy Sant; Deputy to the Mayor John Hiskey; Police Chief Stephen Chapman; Fire Chief Don Chase; Assistant Parks & Recreation Director Scott Earl; Risk Manager Bryce McEuen; Personnel Director Brian Kelley; Executive Assistant to the Mayor Marsha Millet; Council Office Director Phil Glenn; Council Office Manager Naleen Wright

ABSENT/EXCUSED:

Councilman Scott Cowdell (helping his daughter)

1. **OPENING REMARKS/PRAYER/PLEDGE:**

The Prayer was offered by Boy Scout Tanner Langston, and the Pledge was led by Boy Scout Bryson Alm.

2. **CITIZEN(S) COMMENTS:**

1. Christy Ellis, 12063 Pineridge Road, stated that she was at the meeting to advise the Council of her full support of creating a new school district. She was concerned how the Jordan School District's plan to bond for \$200 million would affect the City's decision to possibly create a new school district.

Byron Jorgenson explained that Jordan School District has plans to bond for \$15 million this year. They have declared a need to construct 34 additional new schools. He indicated that Ms. Ellis could contact John Hiskey for more updated information.

2. Frank Christensen gave his support to the creation of a multi-city school district.

3. Deborah DeVos notified the Council of a trash problem in one of our City Parks.

Assistant Parks & Recreation Director Scott Earl spoke with her in the hall about the problem.

3. **SPECIAL PRESENTATION(S):**

1. **Sandy Youth City Council Swearing In Ceremony:**

Executive Assistant to the Mayor Marsha Millet introduced members of the Sandy Youth City Council. She complimented the good work and dedication of these individuals, who were then sworn in by **Judge Donald Sawaya**. See Exhibit "A" (for both a and b - Special Presentations)

- b) **Sandy Youth Court:**

Police Chief Stephen Chapman introduced members of the Sandy Youth Court. These youth were credited with exceptional work in working with the Court and their peers. **Judge Donald Sawaya** also swore them in.

PUBLIC HEARING(S)

4. **Healing Field & Scarecrow Festival (Non-monetary City Assistance)**
Public Hearing to consider authorizing Sandy City to provide non-monetary City assistance to nonprofit entities for the follow events in Sandy:

- a. **Healing Field 2006:**
(September 8-12, 2006) (Non-monetary City Contribution - estimated value of \$600)

DISCUSSION: Assistant Director of Parks & Recreation **Scott Earl** explained the costs to the City associated with both the Healing Field and the Scarecrow Festival. He broke down the expense to the City and explained the value, offset and even higher return to the City in sales tax, advertising and the benefits associated with people attending both events and spending money and time in Sandy.

The public hearing was opened and closed, as there were no comments.

MOTION: Dennis Tenney made the motion to approve an estimated \$600 of City services in exchange for services rendered by the event to support the Healing Field 2006, as outlined and explained by Scott Earl.

SECOND: Stephen Smith

VOTE: Tenney- Yes, Smith- Yes, McCandless- Yes,
Anderson- Yes, Cowdell-Absent, Fairbanks- Yes, Saville- Yes

MOTION PASSED
6 in favor, 1 absent

- b. **Scarecrow Festival 2006:**
(October 12-14, 2006) (Non-monetary City Contribution - estimated value of \$4,125)

The public hearing was opened and closed, as there were no comments.

MOTION: Dennis Tenney made the motion to approve an estimated \$4,125 in City services in exchange for services rendered by the event to support the Scarecrow Festival 2006, as outlined and explained by Scott Earl.

SECOND: Bryant Anderson

VOTE: Tenney-Yes, Anderson- Yes, Smith- Yes, McCandless- Yes,
Cowdell- absent, Fairbanks- Yes, Saville- Yes

MOTION PASSED
6 in favor, 1 absent

5. **Administrative Code Amendments: Re: Appointed Officers & Employees**
Public Hearing to consider amending the Revised Ordinances of Sandy City by amending Title 6, "Administrative Code" by adopting new Sections 6-7-3, 6-7-4 and 6-7-5 regarding appointed officers and employees, replacing those existing sections; also providing legal clarifications and a supporting study.

DISCUSSION: Director of Human Services Brian Kelley reminded the Council that the proposed amendment to the Administrative Code was previously explained to the Council, and City Staff were asked to bring back employee feedback to the Council. A verbal summary of that employee feedback was given to the Council and a written handout was also provided.

Chris McCandless stated that after reading the report, he was of the opinion that Chief Building Official **Scott Marsell** should remain a merit employee.

Mike Coulam explained that Mr. Marsell was concerned that political pressure could threaten his job. Mr. Coulam stated that this would never happen in Sandy. It was his preference, as the Community Development Director, that Mr. Marsell become an appointed employee.

Mr. Kelley noted that the most controversial aspect appeared to be the Sandy Police Lieutenants becoming appointed employees. Some Police Officers are concerned that these lieutenants would then become "Yes People" in order to keep their positions. They would be afraid of opposing the Police Chief and voicing the employee's side of an issue. The other concern is that if a new Police Chief was brought in, he would want to bring in his own people and replace existing lieutenant management. Some feel the Police Chief could easily find fault with a lieutenant's performance, just simply because he did not agree with the Chief. If lieutenants were appointed employees, the Chief would not have to show cause if he wished to let an individual go. As merit employees, the appeal process could be invoked by the employee(s). Mr. Kelley reported that the Mayor's Cabinet has discussed the proposed amendment at length. They also discussed the lieutenant situation. Police Chief Chapman indicated, at that time, that he had no problem with removing his lieutenants from the appointed category and retaining them as merit employees.

The public hearing was opened.

Chris Thomas, President of the Sandy Police Association, stated that Policemen here at the City are not supportive of the lieutenant position becoming an appointed position. Officers feel it would be a negative impact upon the department. The status of having only the Police Chief and the Assistant Police Chief as appointed employees meets current State law, and the Association is opposed to the position of lieutenant being re- categorized as an appointed employee.

The public hearing was closed.

Council Discussion:

Dennis Tenney asked Mr. Kelley if this proposal was initiated by the Administration. He also asked, "With no changes to our existing policy, would we be in compliance with State law?"

Mr. Kelley stated that Human Resources brought this to the attention of the Administration, as Sandy is currently not completely in compliance with State requirements. Our current policy is not consistent. Some Assistant Department Heads are merit employees, and some are appointed. Our part-time positions are not in line with State law. Mr. Kelley noted that if a new Police Chief were hired in the future, he could not terminate all of the detectives and bring in new ones. He would be authorized to change only a set number of officers within the department. Checks and balances have been set up that protect the Police Department and other departments' employees.

City Attorney Walter Miller added that our Appeal Board is also out of line, and some changes must be made.

Byron Jorgenson said, "Mayor Dolan had no part in suggesting or preparing the proposed ordinance. This proposal came from Personnel, and was strictly intended to bring Sandy into compliance with State law."

Dennis Tenney stated that the amendment, as presented, seemed a little premature. He suggested that the Council and Administration be given more time to digest the plan, so they could come back with recommendations that are more palatable. He didn't want anything implemented that would demoralize City employees. He suggested that the amendment be brought back in the next 30 days.

Steve Fairbanks commented, "I think very highly of our Department Heads and Administration, but new people could come in. A firm policy needs to be in place to avoid the possibility of any perceived unfairness to City employees.

Chris McCandless added, "Sandy City has exceptional employees. However, a future Administration may not be as good as the one we have today."

Mayor Dolan stated that the proposed policy would be amended to reflect that the lieutenant position will be a merit position and will NOT be an appointed position.

Stephen Smith said he felt somewhat conflicted about this proposed new policy, when Utah is perceived to be a right to work state. He said he understood the need for predictability of employment. Department Heads need to be able run their departments. The Category 2 section of employees, as proposed, seems to go too deep. He felt more thought should be given to the categories. He asked, "How far down the chain of command do we go with appointed employees." Mr. Smith did not feel it was appropriate to expose, unduly, employees to a whim of a new department head.

Bryant Anderson stated that the City generally hires great Department Heads, elects great Mayors and has a wonderful Administration. This, however, does not negate the need to have a good policy and procedure put in place for the City. He supported cleaning up the current policy and making it work better. Mr. Anderson also supported taking the time to examine the proposed changes, to make sure we are doing the right thing. He was also very supportive of a good grievance process. It is important that the Council be made aware of the feedback from City employees.

Linda Martinez Saville stated that some of the remarks made by City employees have made her feel that it would be best to wait two weeks, so the Council may have time to digest the information and come back with a decision.

Byron Jorgenson stated that he appreciated the City Council's comments. This discussion and wisdom brought to it by the City Council will prevail in the end. He stated that the committee which brought forth this recommendation did a great job of putting it all together. The Mayor's Cabinet discussed it at length and said they too needed more time to digest the information. Mr. Jorgenson reported that he and City Attorney Walter Miller are the only employees that currently have a severance package. Sandy City has a superb workforce and an incredible hiring process. He agreed with delaying a decision to give time to make this the best policy that we can.

MOTION:

Dennis Tenney made the motion that information regarding the proposed amendments to Title 6, "Administrative Code" adding new Sections 6-7-3, 6-7-4 and 6-7-5 regarding appointed officers and employees be brought back for further review in two weeks.

SECOND:

Bryant Anderson

VOTE:

**Tenney- Yes, Anderson- Yes, Smith- Yes, McCandless- Yes,
Coddell- Absent, Fairbanks- Yes, Saville- Yes**

MOTION PASSED

6 in favor, 1 absent

6. Code Amendment: Amending Conditional Use Ordinance

Public Hearing to consider a request of the Sandy City Community Development Department and Attorney's Office to amend Title 15, Land Development Code, Revised Ordinances of Sandy City Section 15-05-07, "Conditional Use Permit," and Section 15-15, "Definitions."

DISCUSSION: Planning Director Mike Coulam commented that Staff have spent a great deal of time working on this proposed ordinance dealing with Conditional Use Permits. He noted that the City Council had been previously educated and advised by Deputy City Attorney Kathy Jeffery as to the legalities and application of the ordinance as proposed. Mr. Coulam reported that Sandy Staff have compared our proposed ordinance to those of other similar sized cities. In Mr. Coulam's opinion, "Attorney Kathy Jeffery, along with our Planning Staff and members of the Committee, have pulled off a great fete considering the complexities involved in writing this ordinance." Planning Staff, the Planning Commission, and the Committee recommend approval by the Council. Mr. Coulam indicated that there would be a couple of small changes made to the ordinance that would be presented for adoption two weeks from tonight with changes as proposed by Councilman Chris McCandless. The Committee, Planning Staff and the Planning Commission supported the inclusion of these changes in the final document.

Staff Report:

The Sandy City Community Development Department and the City Attorney's Office have filed a request to amend Section 15-05-07, Conditional Use Permit, and Section 15-15, Definitions. The ordinance amendment is being requested to allow for compliance with Utah Code, specifically, the Municipal Land Use Development and Management Act 2006 (LUDMA). City Staff have been working on a rewrite of the City Development Code for approximately one year. During this exercise, Staff have determined that moving forward with an ordinance amendment relative to Conditional Use Permits is necessary before the adoption of the overall code changes. The proposed ordinance amendment is intended to update the current conditional use provisions within the Sandy City Development Code.

It is proposed to amend Section 15-05-07, Conditional Use Permit, and Section 15-15, Definitions. While the proposed ordinance amendment is intended to update the current conditional use provisions within Sandy code, it is also intended to meet or exceed recent changes and requirements of the Municipal Land Use Development and Management Act 2006 (LUDMA). The conditional use review process, application requirements, general standards and conditions have all been updated to allow for a more thorough review of future applications.

The proposed ordinance amendment will not create any additional non-conforming uses within any zoning district. It is intended to provide a mechanism for the Planning Commission to approve or deny applications for conditional use permits.

STAFF RECOMMENDATION:

The Community Development Department respectfully requests that the City Council adopt the proposed ordinance for the following reasons:

- 1) The proposed ordinance amendment is consistent with the Purpose of the Land Development Code.
- 2) The proposed ordinance amendment is consistent with the Goals and Policies of the General Plan.
- 3) The proposed ordinance amendment is consistent with the Municipal Land Use Development and Management Act 2006 (LUDMA).

Chris McCandless outlined that his proposed changes to the proposed code amendment as follows:

- 1) **Impact Burden - changing the language from the "developer" to the "development."**
- 2) Expiration - creating additional language to allow for Staff to approve a time extension for Conditional Use Permits. Also allowing for an appeal process/time limit for residents.
- 3) Allowing Conditional Use Permits to flow with the land if the new owner proposes the same use.

The public hearing was opened and closed, as there were no comments.

MOTION:

Dennis Tenney made the motion to have documents brought back to adopt the proposed amendments **amend Title 15, Land Development Code, Revised Ordinances of Sandy City Section 15-05-07, "Conditional Use Permit," and Section 15-15, "Definitions", along with the three changes proposed by Chris McCandless ie.,**

- 1) **Impact Burden - changing the language from the "developer" to the "development."**
- 4) Expiration - creating additional language to allow for Staff to approve a time extension for conditional use permits. Also allowing for an appeal process/time limit for residents.
- 5) Allowing conditional use permits to flow with the land if the new owner proposes the same use.

SECOND: Bryant Anderson

VOTE: Tenney- Yes, Anderson- Yes, Smith- Yes, McCandless- Yes,
Cowdell- Absent, Fairbanks- Yes, Saville- Yes

MOTION PASSED

6 in favor, 1 absent

COUNCIL ITEMS:

7. Street Vacation - Farnsworth Lane

Ordinance #06-25 - modifying the Official Street Map of Sandy City by vacating a portion of Farnsworth Lane adjacent to Lot 23 of Farnsworth Farms Subdivision, but not vacating any utility easements, rights-of-way or dedications by use located therein.

MOTION:

Dennis Tenney
made the motion to
adopt Ordinance #06-25
- modifying

The
Official Street Map of
Sandy City by vacating
a portion of Farnsworth
Lane
adjacent to Lot 23 of
Farnsworth Farms
Subdivision, but not
vacating any

utility
easements, rights-of-
way or dedications by
use located therein.

SECOND: Chris McCandless

VOTE: Tenney- Yes, McCandless- Yes, Smith- Yes,
Anderson- Yes, Cowdell- Absent, Fairbanks- Yes, Saville- Yes

MOTION PASSED

6 in favor, 1 absent

8. Street Closure - Union Park Avenue

Ordinance #06-26 - approving modification of the Official Street Map of Sandy City to close a portion of the East side of Union Park Avenue, but not closing/vacating any utility easements, rights-of-way or dedications by use located therein.

MOTION: Dennis Tenney made the motion to adopt Ordinance #06-26 - approving modification of the Official Street Map of Sandy City to close a portion of the East side of Union Park Avenue, but not closing/vacating any utility easements, rights-of-way or dedications by use located therein.

SECOND: Bryant Anderson

VOTE: Tenney- Yes, Anderson- Yes, Smith- Yes, McCandless- Yes, Cowdell- Tenney, Fairbanks- Yes, Saville- Yes

MOTION PASSED

6 in favor, 1 absent

MINUTES:

9. Approving the August 8, 2006, City Council Meeting Minutes.

MOTION: Dennis Tenney made the motion to adopt the August 8, 2006, City Council Meeting Minutes as presented.

SECOND: Chris McCandless

VOTE: The Council voted verbally and unanimously in the affirmative.

10. MAYOR'S REPORT:

1. Provided during Planning Meeting

11. CAO'S REPORT:

1. Provided during Planning Meeting

12. COUNCIL OFFICE DIRECTOR'S REPORT:

1. Phil Glenn passed out the Council's calendar. He also provided a letter of resignation, written by Steve Newton, from the Salt Lake/Sandy Metropolitan Water Board, with an effective date of Oct 1st. This is a City Council appointment; the vacancy and request for applicants to apply for the vacancy must be published, by law, in 4 separate places for one month and published in the newspaper for 5 consecutive days. The vacancy cannot be filled sooner than 2 months after the Council receives notice of the pending vacancy. Upon receipt, the applications will be reviewed by the City Council during a Council meeting in October. Mr. Newton explained in his letter that he needs more time to devote to his law practice. Mr. Glenn stated that he would notice the vacancy immediately, but the soonest we can legally make this appointment is the 1st week in November.

Chris McCandless was concerned that there would be about a 35 day gap in Sandy representation at the Metro meetings. He suggested that the Council appoint someone to fill in as a non-voting Sandy representative for that time.

Phil Glenn advised Councilman McCandless that Public Utilities Director Shane Pace is always in attendance at Metro Water Board meetings, as well as John Kirkham.

Chris McCandless responded, "We're ok then."

2. Mr. Glenn reminded Steve Fairbanks, Dennis Tenney and Bryant Anderson of their registration at the Utah League of Cities and Towns meeting next week.
3. Phil Glenn advised the Council that he would be on vacation starting Friday September 15th, and returning on Monday, September 25.
13. **OTHER COUNCIL BUSINESS:**
4. None

At approximately 8:45 p.m., Dennis Tenney made a motion to adjourn Council Meeting, motion seconded by Stephen Smith.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Linda Martinez Saville
Council Chairwoman

Naleen Wright
Council Office Manager

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